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FEDERAL COMMUNICATIONS COMMISSION
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February 24, 1997

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: Ex Parte Filing in IB Docket No. 96-220

Dear Mr. Caton:

Enclosed herewith, on behalf of Final Analysis Communication Services, Inc. ("Final Analysis"), Orbital Communications Corp. ("Orbcomm"), E-Sat, Inc. ("E-Sat"), Volunteers in Technical Assistance ("VITA") and GE Starsys Global Positioning, Inc. ("Starsys") (collectively the "Parties"), is a copy of written material distributed ex parte to Commission staff during a status conference in the above referenced proceeding on Friday, February 21, 1997.

The enclosed material refers to a specific proposal, presented by the Parties during the status conference (the "Parties' Proposal), for an engineering solution to potential mutual exclusivity issues in licensing second round applicants in the Below 1 GHz Non-voice, Non-geostationary Mobile Satellite Service ("NVNG MSS"). The Parties explained that this engineering solution presented in the Parties' Proposal will permit accommodation of all first round licensees with respect to interference protection and availability of certain spectrum segments subject to specific timing and transition arrangements. They also explained that the proposed solution also will accommodate all new second round applicants by taking full advantage of both CDMA and FDMA/TDMA sharing strategies, particularly for service uplinks, providing for dedicated feederlink uplinks for FDMA/TDMA systems and identifying totally fungible downlink bands. The Parties, which include all first round NVNG MSS licensees and two out of four second round NVNG MSS applicants, reflected their believe that the proposed approach would eliminate any need for exclusion of first

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round applicants, change of qualification criteria or resort to comparative hearings or auctions, and would speed delivery of service to the public.

Discussion at the status conference also focused on the International Bureau's schedule for finishing a proposed Report and Order in the proceeding, the schedule for consideration of the Parties' Proposal by the remaining two second round applicants, the possible and appropriate role of the International Bureau staff in facilitating agreement to the proposal by the remaining two second round applicants, and the continued problems perceived by many participants with utilization by the Commission in this proceeding of other controversial assignment procedures.

Respectfully submitted,

Aileen A. Pisciotta

Counsel to
Final Analysis Communication Services, Inc.

Attachment

cc: Stephen L. Goodman, Counsel for Orbcomm
Joseph A. Godles, Counsel for VITA
Guy T. Christiansen, Counsel for E-Sat
Peter A. Rohrbach, Counsel for GE Starsys
Attached Service List

Second Round Little Leo Licensing
IB Docket No. 96-220

PARTIES' PROPOSAL

In consideration of information that has arisen, and discussions that have occurred, subsequent to the close of the pleading cycle in the above-referenced proceeding, the following points are now agreed by the below named parties to the proceeding (the "Parties") and submitted to the Commission for consideration:

1. Market Structure

Market studies show that more competitive entry in NVNG MSS services below 1 GHz would be beneficial. The record also shows that the market is diverse and that applicants have different requirements. Consistent with longstanding Commission objectives, the Parties agree that this proceeding should be resolved in a way that reduces barriers to entry, promotes competition and ensures efficient spectrum utilization. Consequently, the Parties agree that both the public interest and the private interests of the applicants are jointly best served by the accommodation, as far as possible within the available spectrum, of all second round applicants according to their stated requirements.

2. Principles of Agreement

a. An engineering solution should be used to accommodate all second round applicants and avoid the need for excluding any applicants on the basis of changes of existing qualifications or auctions for this round.

b. A band plan which (i) takes full advantage of the unique characteristics of NVNG MSS technology and (ii) accommodates applicants' technical requirements to the extent possible under available spectrum should identify fungible systems that eliminate potential mutual exclusivity among them.

c. The first round licensees' migration to use of the Transit Bands should be accommodated.

d. New licensees will coordinate with existing licensees and operators and protect them from interference.

e. All licensees will have the opportunity to expand their systems with spectrum allocated at WRC-95 and subsequent conferences.

3. **Band Plan**

a. **Uplinks**

i. **CDMA:** E-Sat (within 148.025-149.90 MHz) and GE Starsys (148.0-148.905 MHz) to operate under CDMA sharing strategies across these bands for both service and feeder links.

ii. **FDMA/TDMA:**

(1) Service Links: CTA, Final Analysis, Leo One and VITA to share across the 148.905-149.9 MHz band using FDMA/TDMA sharing strategies.

(2) Feeder Links:

(a) CTA, Final Analysis and Leo One each to utilize individual 50 kHz bands in the lower Transit band (149.9 - 150.05 MHz), upper Transit band (399.9-400.05 MHz), Orbcomm's current feeder link allocation or any other newly allocated Little Leo spectrum.

(b) Orbcomm and GE Starsys will migrate into the lower Transit bands for use by each of 50 kHz channels, subject to specific timing and transition arrangements.

iii. Also proposed that second round applicants be authorized to operate in Region 2 on WRC-95 spectrum at 455-456 MHz and 459-460 MHz, to alleviate congestion in this Region.

b. **Downlinks**

i. **CDMA:** E-Sat and GE Starsys to operate under CDMA sharing strategies across 137-138 MHz band.

ii. **FDMA/TDMA:**

(1) Systems X and Y (either one fungibly assigned to either of Leo One or Final Analysis) - each including half of the two systems originally identified by Leo One (System A: 400-401 MHz and System B: 137-138 MHz), subject to operations by CTA, Final Analysis and Leo One in Systems X and Y not making use of the 90 kHz assigned to VITA in a manner that would prevent VITA from operating on a non-interference basis.

(2) CTA shares across bands utilizing 40 to 60 kHz of downlink spectrum on a sharing basis with System X and Y.

(3) Orbcomm would use any remaining spectrum or unused spectrum in the 137-138 MHz band to support its additional satellites.

c. **Protection of Existing Users** - New licensees will protect and coordinate with VITA, Orbcomm, GE Starsys, NOAA and DOD to prevent harmful interference.

4. **The Commission Has Authority to Make Such Assignments Without Use of Auctions or Domsat Financial Qualifications**

a. The band plan proposed here eliminates mutual exclusivity with respect to all pending applications.

b. The Commission is obliged under Section 309(j)(6)(E) of the Communications Act to try to avoid mutual exclusivity, before auctions can be considered. If mutual exclusivity is avoided, the Commission may not use auctions.

c. In the present case, where two fungible bands will accommodate the two proponents of large new systems, the only issue remaining is the assignment of a particular band to a particular applicant. In such circumstances, change of the existing qualifications standard for this round is unwarranted, inappropriate and does not serve any useful purpose.

d. The Commission has adequate authority to use "other means" under Section 309(j)(6)(E), including this engineering solution and a coin toss or other objective criterion, if necessary, in the assignment of individual applicants to specific frequency bands.

5. **Additional spectrum must be made available to all Little Leo licensees**

Achievement of the full ultimate potential for this service (U.S. licensees effectively competitive on a global basis across all market subsegments) requires more spectrum.

a. The Commission should determine that first and second round licensees have priority for subsequent global allocations of Little Leo spectrum.

b. Correspondingly, second and first round licensees should be permitted to amend their system plans to accommodate spectrum allocated at WRC-95 and WRC-97 and later conferences, as necessary, to fully implement originally proposed constellations.

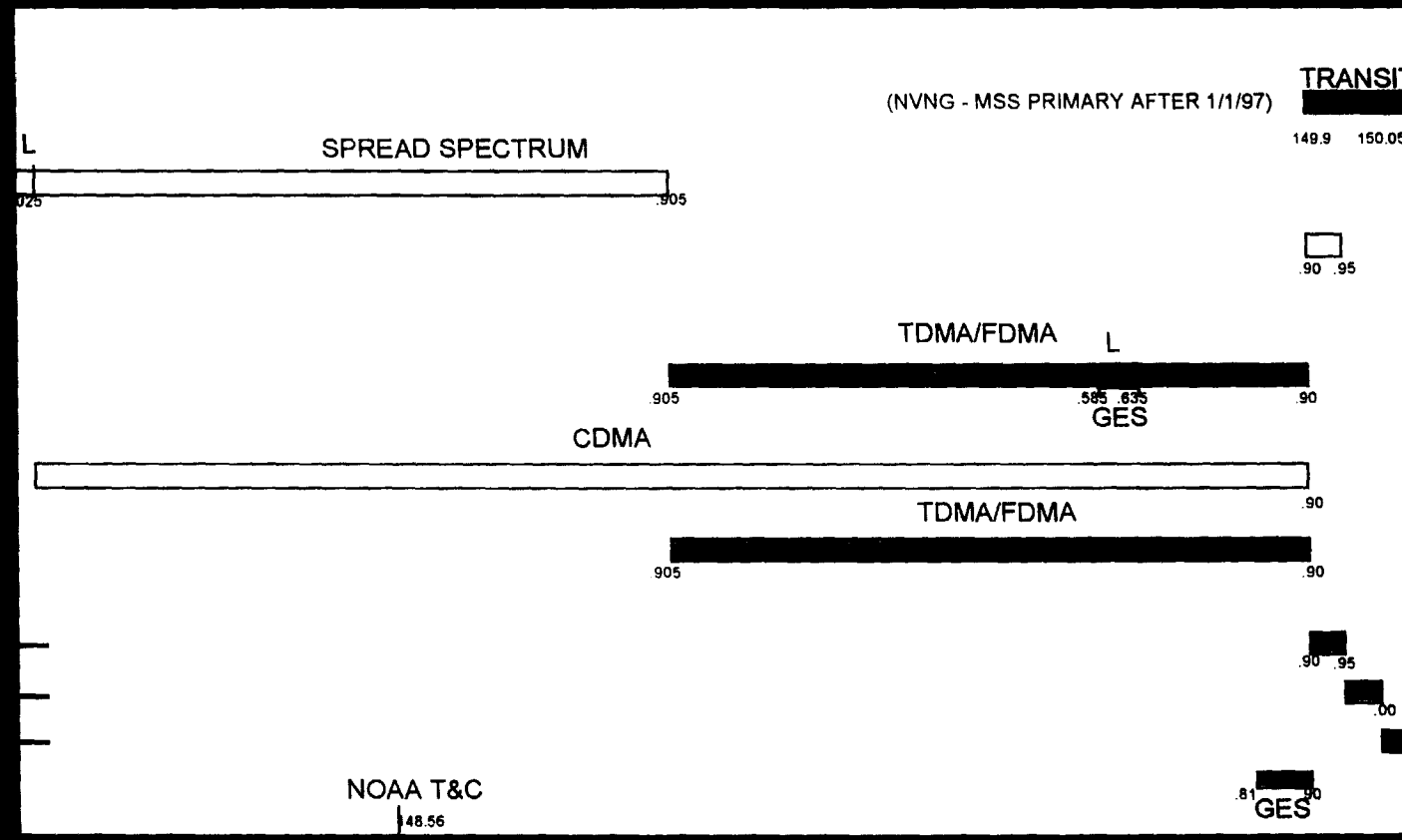
c. No third round should be opened until existing licensees have been permitted to fill out their systems to achieve their originally stated design goals and necessary international coordination has been completed.

This Parties Proposal agreed to as of February 20, 1997:

The Parties:

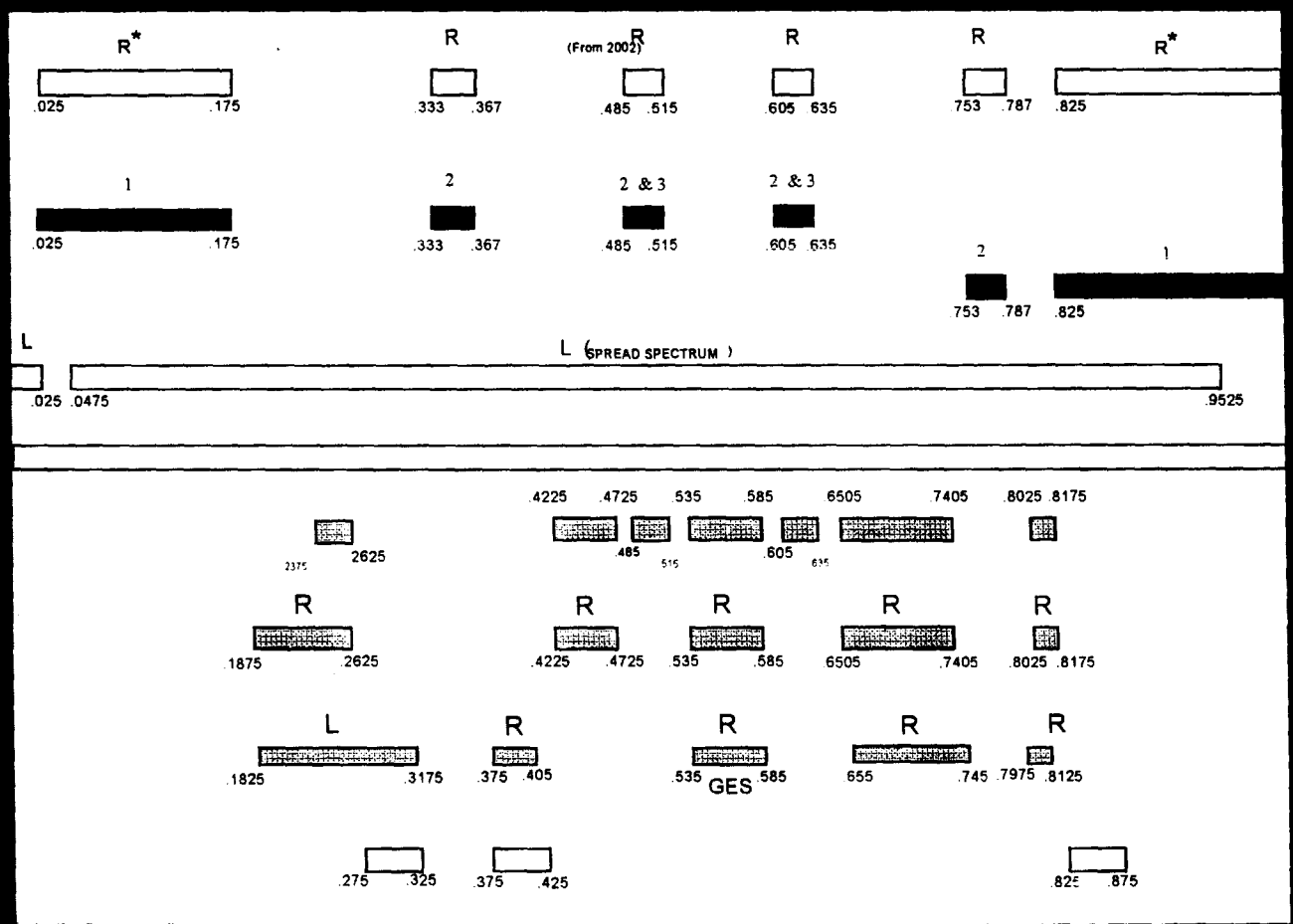
Orbital Communications Corp. ("Orbcomm")
E-SAT, Inc. ("E-Sat")
Volunteers in Technical Assistance ("VITA")
Final Analysis Communication Services, Inc. ("Final Analysis")
GE Starsys Global Positioning Inc. ("GE Starsys")

148.0 - 150.05 MHz Uplink Band



R: RHCP
L: LHCP

137.0 - 138.0 MHz Downlink Band



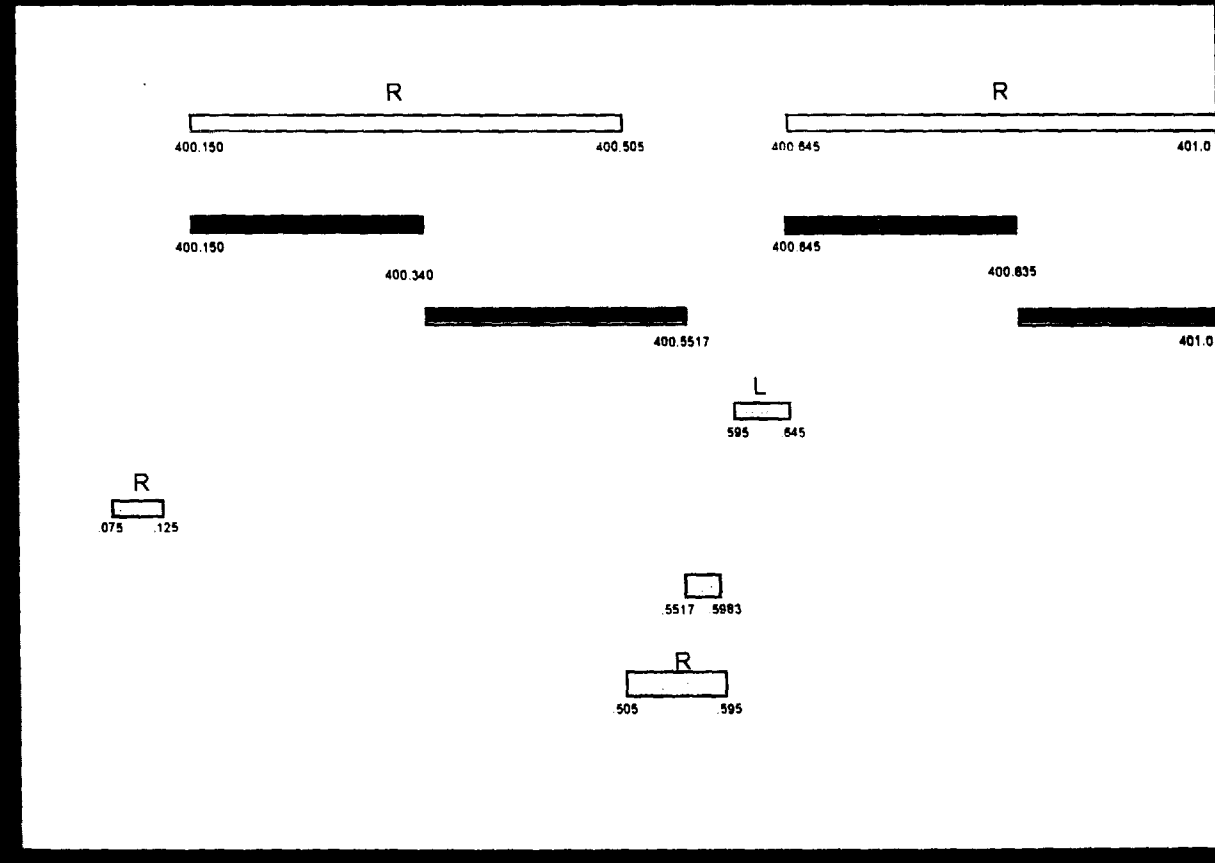
R RHCP

L LHCP

Effective [illegible] will begin using the Subband from satellite in 2002 and second satellite in 2007 and the [illegible] from 0.185-0.275 [illegible] of NOAA's channels

1. These bands can be used primary till 2002, little share until NOAA afterwards
2. These channels can be used as secondary, until January 2000, co-primary afterwards
3. Orbcomm might not need to migrate operation into these channels when NOAA begins operation in the 137.025-137.175 Subband if successful with coordination
4. Orbcomm Downlink spectrum to accommodate additional 12 satellites to be coordinated

400.0 - 401.0 MHz Downlink Band



R RHCP
L LHCP

CERTIFICATE OF SERVICE

I, Aileen A. Pisciotta of Kelley Drye & Warren LLP, hereby certify that on this 24th day of February 1997, true copies of the foregoing "Ex Parte Filing in IB Docket No. 96-220" have been hand delivered to:

Chairman Reed E. Hundt
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1919 M Street, N.W.
Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W.
Room 802
Washington, D.C. 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, N.W.
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2000 M Street, N.W., Room 803
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Aileen A. Pisciotta

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